

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

UNITED STATES OF AMERICA

Civil No. 11-cv-00579

V.

CRIMINAL NO. 3:08-00198

KATHRYN ANN HEMETEK

MOTION FOR BOND

Comes the petitioner, Kathryn Ann Hemetek, and moves the Court to release her on bond pending the hearing of her habeas petition. Ms. Hemetek was taken into custody in June, 2009, and has served 27 months' of incarceration which is equivalent to the minimum Guideline sentence of imprisonment, had the minimum mandatory sentence of 60 months not been applied.

Petitioner has submitted credible evidence that she is likely to prevail, particularly on the issue of whether she was advised as to the safety valve provisions. It was expected that she would have two criminal history points, but when it developed that she had only one criminal history point, she was not advised as to the option to be debriefed and qualify for the safety valve.

In addition, she raised multiple issues raising serious questions as to whether she received adequate assistance of counsel at trial and in regard to being informed of her exposure to the minimum mandatory sentence.

Further, petitioner has a serious medical problem requiring surgery. She is on crutches due to breaking her foot when she fell from an upper bunk at Alderson FCI. She needs to be released from the facility for medical reasons.

Petitioner has a close and supportive family in West Virginia with strong ties to the

community. She is unlikely to flee, fail to appear for a hearing, or be a danger to the community. She can be released to the custody of her family, and will appear for all court hearings as required. Her health is threatened by being incarcerated while being treated for her broken foot which required surgery.

RELIEF REQUESTED

The petitioner asks that the Court grant the following relief: bond pending an evidentiary hearing in this matter. If she is denied bond, she may be denied effective relief by being required to serve her sentence before this petition is resolved. Petitioner asks for any other relief to which movant may be entitled.

KATHRYN ANN HEMETEK

BY COUNSEL

/s/ Jacqueline A. Hallinan
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CERTIFICATE OF SERVICE

I, Jacqueline A. Hallinan, counsel for defendant, hereby certify that the attached Motion For Bond was served on Assistant United States Attorney Josh Hanks, counsel for the United States by CM/ECF on September 20, 2011.

/s/ Jacqueline A. Hallinan
JACQUELINE A. HALLINAN